

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ALVARO ZUNIGA,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. C-11-96
	§	
SIX UNKNOWN NAMES AGENTS, <i>et al</i> ,	§	
	§	
Defendants.	§	

MEMORANDUM AND RECOMMENDATION TO DISMISS

On April 4, 2011, proceeding *pro se*, plaintiff filed this civil rights lawsuit pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971) (D.E. 1). On April 6, 2011, plaintiff was mailed a Notice of Deficient Pleading advising him that within twenty (20) days he must pay the \$350 filing fee or submit a completed application for leave to proceed *in forma pauperis* together with a certified copy of his inmate trust account statement (D.E. 4). Plaintiff failed to timely comply. On May 4, 2011, plaintiff was ordered to show cause, within thirty days, why his complaint should not be dismissed for want of prosecution (D.E. 5). To date plaintiff has not paid the fee nor has he shown cause for his failure to comply. Plaintiff was warned that his failure to comply would result in dismissal. It appears plaintiff has abandoned his claim.

Accordingly, it is respectfully recommended that plaintiff's complaint be dismissed without prejudice for want of prosecution. Fed. R. Civ. P. 41(b).

Respectfully submitted this 10th day of June, 2011.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

The Clerk will file this Memorandum and Recommendation and transmit a copy to each party or counsel. Within **FOURTEEN (14) DAYS** after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve on the United States Magistrate Judge and all parties, written objections, pursuant to 28 U.S.C. § 636(b)(1); Rule 72(b) of the Federal Rules of Civil Procedure; and Article IV, General Order No. 2002-13, United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendations in a magistrate judge's report and recommendation within **FOURTEEN (14) DAYS** after being served with a copy shall bar that party, except upon grounds of *plain error*, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc).